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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/811,119

03/26/2004

James W. Owens

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10/12/2006

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FORT COLLINS, CO 80527-2400

EXAMINER

UNELUS, ERNEST

ART UNIT

PAPER NUMBER

2181

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/811,119	<b>Applicant(s)</b> OWENS ET AL.	
	<b>Examiner</b> Ernest Unelus	<b>Art Unit</b> 2181	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) 3,4 and 34-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-31,33 and 38-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

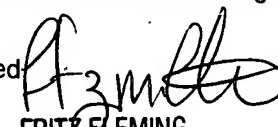
#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
FRITZ FLEMING  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100  
10/5/2006

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

**RESPONSE TO AMENDMENT**

**Claim rejections based on prior art**

Applicant's arguments filed 08/14/2006 have been fully considered but they are not persuasive.

**The applicant discloses that the Konishi reference didn't disclose that the external memory medium is directly connectable to the data appliance".**

**This is not correct because Konishi discloses "The PCMCIA card type hard disk drive 122 is larger in capacity than the built-in flash memory 121, and is detachably mounted on the video camera apparatus 11" (see paragraph 0060).**

**The applicant also discloses "As described above, Konishi only describes controlling video compression relative to whether data is to be locally stored or streamed over the Internet. No data transfer determination is made relative to a data transfer rate between an appliance (e.g., Konishi's video camera apparatus) and a memory medium that is "directly connectable to the appliance". Applicant"**

**In paragraph 0069, Konishi discloses at the presence of the memory card, meaning, when the memory card is connected to the camera, data is transmitted at "high bit" rate compare to a "low bite" when it's not connected.**

**Canceled Claim**

**The applicant canceled claims 4, 32, and 34-37**

**New Claim**

**Claims 43-47 have been added.**

**I. INFORMATION CONCERNING OATH/DECLARATION**

**Oath/Declaration**

1. The applicant's oath/declaration has been reviewed by the examiner and is found to conform to the requirements prescribed in 37 C.F.R. 1.63.

**II. INFORMATION CONCERNING DRAWINGS**

**Drawings**

2. The applicant's drawings submitted are acceptable for examination purposes.

**III. REJECTIONS BASED ON PRIOR ART**

**Claim Rejections - 35 USC § 102**

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1-3, 5-31, 33, and 38-47**, are rejected under 35 U.S.C. 102(b) as being anticipated by Konishi et al. (US pub. 2002/0003576).

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5. As per claim 1, Konishi discloses “a method for dynamically processing data (see **paragraph 0004**), the method comprising the steps of: determining a sustainable data transfer rate between a data appliance (**camera 11 in fig. 1**) and an external memory medium that is directly connectable to the data appliance [(**external memory card 122 in fig. 1**) [according to **paragraph 0144 or fig. 31**, “*determining a sustainable data transfer rate*” is deciding whether or not the PCMCIA card type is mounted to the camera. If, for example, the card is mounted, the “*sustainable data transfer rate*” will be “FINE”, which transfer data at a bit rate of 1.5Mbps in video mode or 128kbps in internet mode. “FINE” is the default motion. Paragraph 0060, lines 6-8 discloses “The PCMCIA card type hard disk drive 122 is larger in capacity than the built-in flash memory 121, and is detachably mounted on the video camera apparatus 11”]. selecting a value (setting the default value of the target bit rate) for at least one operational parameter (**video or internet mode**) within the data appliance (**camera 11**) in response to the sustainable data transfer rate (“NORMAL”, the target bit rate) [(**paragraph 0144 discloses “The default motion video shooting and recording mode is set to a mode at a lower bit rate than in the use of the PCMCIA card type hard disk drive 122 as a recording medium, e.g., NORMAL as a predetermined resolution in the VIDEO mode, or to the INTERNET mode (step S155). The target bit rate can be optimized by automatically setting the default value of the target bit rate in video shooting/recording in accordance with the type of recording medium used”**)]]; and processing data in accordance with the at least one operational parameter (to “*process the data in accordance with at least one operational parameter*” is to set the default value of the target bit rate in video or in internet mode, as discloses in **paragraph 0144. Video or Internet mode being the operational parameter**).

6. As per **claim 2**, Konishi discloses “The method of claim 1,” [See rejection to claim 1 above], “wherein determining a sustainable data transfer rate between a data appliance and an external memory medium comprises transferring a test file between the data appliance and the external memory medium [(with respect to this limitation, page 3 of the applicant’s specification discloses “*The test file contains a digital representation of video data*”).

Similarly, Konishi, in paragraphs 0127 and 0128, discloses an index file, which is also a DCF file that contain a thumbnail image. Konishi also discloses in paragraphs 0127 and 0128 that the index file is a representation of the main file or a video image. It is also well known in the art of camera to have a thumbnail of an image, which is a smaller or representation of the actual big picture].

7. As per **claims 3 and 19**, Konishi discloses “wherein selecting a value for at least one operational parameter comprises identifying a data acquisition parameter” [(with respect to this limitation, pages 5 and 6 of the applicant’s specification discloses the acquisition parameter as the capturing unit, which is a sensor or a photodetector). Similarly, Konishi discloses a sensor (see paragraph 0013) see also paragraph 0059].

8. As per **claims 5, 15, 20, 29, and 39**, Konishi discloses “wherein identifying a data acquisition parameter comprises changing at least one of a value associated with spatial resolution and frame rate (paragraph 0017 discloses changing the frame rate).

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9. As per claims 6, 22, and 28, Konishi discloses “wherein selecting a value for at least one operational parameter comprises identifying a data compression parameter **(the data being compressed is discloses in fig. 1)**.

10. As per claims 7, 16, 23, 30, and 40, Konishi discloses “wherein identifying a data compression parameter comprises changing at least one of an indicator associated with a bit rate, a frame type, and a search area for motion vectors **(see paragraph 0061)**.

11. As per claim 8, Konishi discloses “wherein selecting a value for at least one operational parameter in response to the sustainable data transfer rate comprises determining a desired data transfer rate responsive to the sustainable data transfer rate **(see paragraph 0144)**.

12. As per claims 9 and 21, Konishi discloses “A data appliance (**camera 11**), comprising: an acquisition system (**CCD 112 in fig. 1**) configured to acquire data in response to an acquisition parameter **(see paragraph 0059)**; a processing system (**video signal processor 113 in fig. 1**) coupled to the acquisition system **(see fig. 1)**, the processing system configured to transform data in response to a processing parameter **(see paragraph 0059)**; and a memory interface (**frame memory 701 in fig. 23**) coupled to the processing system **(this frame is coupled to the control section which is coupled to the processor)**, wherein the data appliance (**camera 11 in fig. 1**) configured to select a value associated with at least one of the acquisition parameter (**CCD 112 in fig. 1**) and the processing parameter (**video signal processor 113 in fig. 1**) responsive to a sustainable data transfer rate between the memory interface and an external

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memory medium that is directly connectable to the data appliance [(paragraph 0144 discloses “The default motion video shooting and recording mode is set to a mode at a lower bit rate than in the use of the PCMCIA card type hard disk drive 122 as a recording medium, e.g., NORMAL as a predetermined resolution in the VIDEO mode, or to the INTERNET mode (step S155). The target bit rate can be optimized by automatically setting the default value of the target bit rate in video shooting/recording in accordance with the type of recording medium used”). Paragraph 0060, lines 6-8 discloses “The PCMCIA card type hard disk drive 122 is larger in capacity than the built-in flash memory 121, and is detachably mounted on the video camera apparatus 11”].

13. As per claim 10, Konishi discloses “The appliance of claim 9,” [See rejection to claim 1 above], “further comprising: an internal memory (built-in flash memory 121 in fig. 1) configured to store a test file (paragraph 0127 discloses “As shown in FIG. 23, the control section 119 comprises an index generator 406. The index generator 406 generates an VGA-size JPEG index file (DCF file) as the index image of an encoded motion video file (ASF), and records the index file on the recording medium (built-in flash memory 121”).

14. As per claims 11 and 31, Konishi discloses” wherein the memory interface (frame memory 701 in fig. 23) is configured to transmit the test file between the data appliance and the external memory medium to measure a sustainable data transfer rate [(with respect to this limitation, page 3 of the applicant’s specification discloses “Some systems and methods described herein for responding to a data transfer measure or otherwise determine”). In other



word, according to the specification, the word “measure” is used interchangeably with determine. Similarly, Konishi discloses determining the sustainable data transfer rate using the memory interface (frame memory 701) see paragraphs 0127 and 0144].

15. As per claims 12, 13, 41, and 42, Konishi discloses “wherein the sustainable data transfer rate is associated with a data write/read operation (paragraphs 0136 discloses read/write operation).

16. As per claim 14, Konishi discloses “wherein the data appliance comprises a digital camera (see camera 11 in fig. 1).

17. As per claim 17, Konishi discloses “wherein the data appliance (camera 11) applies a predetermined set of parameter values responsive to a range of sustainable data transfer rates between the memory interface and an external memory medium (see paragraph 0144).

18. As per claim 18, Konishi discloses “A system for responding to a data transfer rate, the system configured for use in a data appliance, the system (see paragraph 0144), comprising: means for determining a sustainable data transfer rate for data transfers to/from an external memory medium that directly connects to the data appliance (external memory card 122 in fig. 1) coupled to the system (the camera 11) [according to paragraph 0144 or fig. 31, “determining a sustainable data transfer rate” is deciding whether or not the PCMCIA card type is mounted to the camera. If, for example, the card is mounted, the “sustainable data

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*transfer rate*” will be “FINE”, which transfer data at a bit rate of 1.5Mbps in video mode or 128kbps in internet mode. “FINE” is the default motion. Paragraph 0060, lines 6-8 discloses “The PCMCIA card type hard disk drive 122 is larger in capacity than the built-in flash memory 121, and is detachably mounted on the video camera apparatus 11”; means for acquiring a data stream (paragraph 0070 discloses “The MPEG4 encoder 201 executes motion video compression encoding so as to obtain an encoded bit stream having the designated target bit rate ”); means for transforming the data stream (paragraph 0070 discloses “The MPEG4 encoder 201 executes motion video compression encoding so as to obtain an encoded bit stream having the designated target bit rate ”); and means for selecting a value (setting the default value of the target bit rate) for at least one operational parameter (video or internet mode) associated with the means for acquiring or the means for transforming the data stream (The MPEG4 encoder 201 in fig. 23) in response to the sustainable data transfer rate (“NORMAL”, the target bit rate) [(paragraph 0144 discloses “The default motion video shooting and recording mode is set to a mode at a lower bit rate than in the use of the PCMCIA card type hard disk drive 122 as a recording medium, e.g., NORMAL as a predetermined resolution in the VIDEO mode, or to the INTERNET mode (step S155). The target bit rate can be optimized by automatically setting the default value of the target bit rate in video shooting/recording in accordance with the type of recording medium used”)].

19. As per claim 24, Konishi discloses “A computer-readable medium of a data appliance (camera 11 in fig. 1) having stored thereon an executable instruction set, the instruction set (the

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control section 119 in fig. 1), when executed by a processor (video signal processor 113 in fig. 1), directing the processor to perform a method comprising: retrieving a test file (index file, see paragraph 0127) and an initial bit rate (the first frame, see paragraph 0127) (see also paragraph 0144); transferring the test file to an external memory medium that is directly connectable to the data appliance (paragraph 0127 discloses “and records the index file on the recording medium (built-in flash memory 121 or PCMCIA card ”. Paragraph 0060, lines 6-8 discloses “The PCMCIA card type hard disk drive 122 is larger in capacity than the built-in flash memory 121, and is detachably mounted on the video camera apparatus 11”); determining if a data transfer error condition exists (see paragraph 0094, which discloses the existence of a data transfer error); when it is the case that no data transfer error exists (paragraph 0094 discloses no error will exits when the background or the capturing objects are on a stand still. In other word, there would be no error if someone is recording something that is not moving), recording the bit rate to generate a sustainable data transfer rate (see fig. 4, which discloses the recorded the sustainable data transfer bit rate. For example, the sustainable data transfer rate is “NORMAL”, the target bit rate); when it is the case that a data transfer error exists (see paragraph 0094, which discloses the existence of a data transfer error), decreasing the bit rate to generate an interim bit rate and repeating the transferring (paragraph 0094 discloses “inter-frame compression processing can be performed at high efficiency”. To perform at high efficiency, as discloses in paragraph 0008, is to transfer the data at high speed. In the same way, when it is the case that a data transfer error exist, there will be low efficiency, which is decreasing of the transfer bit rate. The paragraph, 0094, also discloses “when the user holds the video camera apparatus 11 to

shoot a motion video, the image correlation between frames decreases owing to hand blurring, pan, zoom, or short cut-in". In this situation, someone will experience "interim bit rate"), determining (see paragraph 0082), decreasing (see paragraph 0115), and recording steps (see fig. 11).

20. As per claim 25, Konishi discloses "The computer-readable medium of claim 24," [See rejection to claim 24 above], "wherein retrieving a test file and a bit rate comprises retrieving video data" (see rejection to claims 10 and 11 above).

21. As per claims 26 and 33, Konishi discloses "wherein the data transfer error comprises a write/read operation error (see paragraph 0137).

22. As per claim 27, Konishi discloses "further comprising: selecting at least one operational parameter (video or internet mode) in response to the sustainable data rate ("NORMAL", the target bit rate) (see fig. 4); and applying the operational parameter (see paragraph 0144).

23. As per claim 38, Konishi discloses "A digital camera (camera 11 in fig. 1), comprising: an image acquisition system (CCD 112) configured to generate a video data stream[(with respect to this limitation, pages 5 and 6 of the applicant's specification discloses the acquisition parameter as the capturing unit, which is a sensor or a photodetector). Similarly, Konishi discloses a sensor (see paragraph 0013) see also paragraph 0059]; a data

processing system (**video signal processor**) configured to receive and transform the video data stream to generate a compressed data stream (**see fig. 1**); an external memory interface (**PCMICA card 122**) coupled to the data processing system and configured to feed back a sustainable data transfer rate to one of the image acquisition system and the data processing system (**see paragraph 0144**), the sustainable data transfer rate related to the rate at which data can be transferred between the external memory interface and a removable memory card that couples to the external memory interface (**see paragraph 0060**).

24. As per **claims 43-45**, Konishi discloses “wherein the external memory medium is a removable flash memory card (**paragraph 0136 discloses “and the file system of the personal computer 13 treats the built-in flash memory 121 as an external hard disk device”**).

25. As per **claims 46 and 47**, Konishi discloses “wherein the external memory medium is a removable flash memory card (**paragraph 0136 discloses “and the file system of the personal computer 13 treats the built-in flash memory 121 as an external hard disk device”**. It’s common sense that any external item is removable).

#### **IV. RELEVANT ART CITED BY THE EXAMINER**

26. The following prior art made of record and not relied upon is cited to establish the level of skill in the applicant’s art and those arts considered reasonably pertinent to applicant’s disclosure. See **MPEP 707.05(c)**.

27. The following reference teaches data transfer rate.

#### **U.S. PATENT NUMBER**

US 2004/0087213

US 5,563,655

**V. CLOSING COMMENTS**

**Conclusion**

**a. STATUS OF CLAIMS IN THE APPLICATION**

28. The following is a summary of the treatment and status of all claims in the application as recommended by M.P.E.P. 707.07(i):

**a(1) CLAIMS REJECTED IN THE APPLICATION**

29. Per the instant office action, claims 1-3, 5-31, 33, and 38-47 have received a final action on the merits.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**b. DIRECTION OF FUTURE CORRESPONDENCES**

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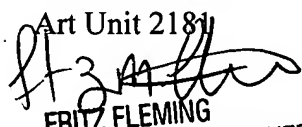
30. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernest Unelus whose telephone number is (571) 272-8596. The examiner can normally be reached on Monday to Friday 9:00 AM to 5:00 PM.

**IMPORTANT NOTE**

31. If attempts to reach the above noted Examiner by telephone is unsuccessful, the Examiner's supervisor, Mr. Fritz M. Fleming, can be reached at the following telephone number: Area Code (571) 272-4145.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

October 04, 2006

Ernest Unelus  
Examiner  
Art Unit 2181  
  
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SUPERVISORY PATENT EXAMINER  
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10/5/2006